



## Michigan Worker's Compensation Reforms Have Succeeded

By Gerald M. Marcinkoski

### Summary

Reforms made in 2011 to Michigan's workers' compensation law have been successful, reducing premiums and establishing a solid legal framework for everyone.

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Gov. Rick Snyder signed a workers' compensation reform bill over four years ago and the real world results of that legislation are now in, and they are very positive. As the Detroit Free Press recently reported, premiums for workers' compensation fell by 28 percent since 2011, while the national average rose by 11 percent. This is good news for a state competing with others for investment and jobs.

Michigan's 2011 workers' compensation reform was both substantive and procedural. Most of the substantive changes were codifications of Michigan Supreme Court case law over the preceding decade. The procedural changes were largely efforts to streamline and modernize the 104-year-old workers' compensation statute.

There was a real need for substantive changes in the statute, because the meanings of fundamental concepts of the law were in constant flux, being based on ever-changing case law interpretations. For example, "disability" once meant the inability to do any one suitable job, based on an employee's qualifications and training. Later, the term was limited and changed to mean the inability to do all suitable jobs. Similarly, for many years, a "personal injury" included an aggravation of just the symptoms of a pre-existing condition, whereas later, "personal injury" required aggravation of the underlying pre-existing condition itself.

While all areas of law can be tweaked via case law, Michigan workers' compensation law experienced 180-degree turnarounds in central concepts. This careening from one interpretation to another created instability, and parties and attorneys found it increasingly difficult to assess claims and predict their outcomes. Fortunately, the Michigan Legislature in 2011 ended the back-and-forth interpretations of key terms by placing directly into the statute certain interpretations borrowed from particular court cases. This brought much-needed stability and consistency to Michigan's workers' compensation system, and ended decades of debates over the meaning of terms such as "disability," "partial disability," "personal injury," and "wage loss."

On the procedural side of the reforms, some of the previous statute's provisions were out of step with modernity, not surprising given the law was originally enacted in 1912. The Legislature of a century ago could not have envisioned medical developments such as artificial knee and hip



Michigan is well-served by reforms the Legislature made to its workers' compensation law in 2011.

replacements. Consequently, there was a need to modernize the statute to reflect how medical progress has empowered some people to continue earning a living, whereas decades ago they would have been physically unable to work. Another change that had to be made to the law involves the interest rate used to make payments to people whose benefits were paid retroactively. When the Legislature changed the law in the 1980s, a 10 percent annual rate made sense, but that hardly reflects the interest rate market of the last decade. The most recent reforms adjusted the rate to do that.

There were several others changes to the law that improved how Michigan's workers' compensation program works. Attorneys can now sign subpoenas and parties may waive settlement hearings, which expedites the legal process and frees up legal resources for more substantive matters. And finally, certain forms and documents may now be filed and distributed electronically, improving the system's overall efficiency.

The 2011 workers' compensation reform bill has proved to be the necessary fix. It has stopped vacillations on perennially controversial points of law. Arguments stretching over decades about what fundamental concepts mean have finally been settled. And the Legislature's modernization and streamlining of the system has greatly improved its overall functionality. Michigan now has a solid, well-defined modern scheme for workers' compensation, which better serves both the interests of employers and of their employees.

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